



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 6803-99

1 May 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 18 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps on 14 April 1966 at the age of 18. Your record reflects that you served for two years and eight months without incident but on 11 December 1969 you received nonjudicial punishment (NJP) for disobedience and were awarded \$10 forfeiture of pay.

On 4 and 12 February 1969 you received NJP for failure to go to your appointed place of duty and disobedience. On 24 April 1969 you received your fourth NJP for being incapacitated for the proper performance of your duties due to alcohol intoxication. The punishment imposed was reduction to paygrade E-2. On 23 September 1969 you were convicted by summary court-martial (SCM) of three periods of unauthorized absence (UA) totalling 66 days. You were sentenced to forfeitures totalling \$109 and confinement at hard labor for 30 days.

Your record further reflects that on 17 November 1969 you began a 127 day period of UA that was not terminated until you were apprehended on 24 March 1970. On 6 May 1970 you submitted a written request for an undesirable discharge in order to avoid

trial by court-martial for the foregoing period of UA. Your record also reflects that prior to submitting this request, you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. On 26 May 1970 your request was granted and your commanding officer was directed to issue you an undesirable discharge by reason of the good of the service. As a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor. On 5 June 1970 you were so discharged.

Your record further reflects that on 15 June 1977, under the Department of Defense Discharge (DOD) Special Discharge Review Program (SDRP), the characterization of your undesirable discharge was changed to general under honorable conditions. However, this recharacterization did not entitle you to benefits administered by the Department of Veterans' Affairs (DVA). Subsequently, as required by Public Law 95-126, the Navy Discharge Review Board (NDRB) determined that you did not qualify for an upgrade of your discharge under uniform standards. However, the characterization of the discharge you received from the SDRP was not changed. Subsequently, you were advised that the NDRB had not affirmed your discharge and that you might be ineligible for veteran's benefits.

The Board, in its review of your entire record and application, carefully considered all mitigating factors, such as your youth and immaturity, and your contention that you would like your discharge upgraded to fully honorable. The Board further considered your contention that you believe the Marine Corps downgraded your clemency discharge. However, the Board found the evidence and materials submitted were not sufficient to warrant recharacterization of your general discharge given your lengthy period of UA. The Board noted that your characterization of service was changed to general under honorable conditions under the provisions of SDRP, but concluded that a further change was not warranted. Given all the circumstances of your case, the Board concluded your discharge, as issued under the SDRP, was proper and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director